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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,374	05/10/2001	Masao Nakagawa	13425.11US01	5423

7590 05/31/2005

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

EXAMINER	
FADOK, MARK A	
ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/852,374	NAKAGAWA, MASAO	
	Examiner	Art Unit	
	Mark Fadok	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *19 April 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6 and 8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 August 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

DETAILED ACTION

Response to Amendment

The examiner is in receipt of applicant's response to office action mailed 11/12/2004, which was received 4/19/2005. Acknowledgement is made to the amendment to claims 1 and the cancellation of claim 7, leaving claims 1-6 and 8 as pending in the instant application. The amendment to specification and the abstract were found to be acceptable and hereby entered. No new matter was identified. The examiner has carefully considered the applicant's amendment and remarks, but did not find them to be persuasive in overcoming the rejection on the merits, therefore the previous rejection modified as necessitated by amendment follows:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

USC 112 Sixth Paragraph Notification

Applicant has provided means-plus function language in the instant claims, which could be construed as having a narrower meaning emanating from specific embodiments found in the specification. Since it is the applicant's responsibility to invoke USC 112 6th paragraph, the examiner will treat the claims using the broadest reasonable interpretation unless the applicant responds to the office action invoking USC 112 6th paragraph and identifying the exact limitations that the applicant is reading into the claims from the specification. Please be advised that should the applicant invoke USC 112 6th paragraph in response to this office action the response may still be made final using the rationale that the applicant has added new subject matter to the claims. A lack of response to this notice will be construed as prosecution history estoppel indicating that the applicant does not wish to invoke USC 112 6th paragraph.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laverty in view of Breen, Jr. et al (US 6,598,027) and further in view of Official Notice.

In regards to claim 1, Laverty discloses a made-to-order system in an electric commerce transaction comprising:

Laverty teaches identifying a user and and utilizing profile information to vary how business will be conducted with the user (col 7, lines 55 – col 8, line 20, but does not specifically mention that A home page including a dealing contract provision that new users are required to acknowledge prior to using the system, wherein returning users are provided with a customer ID and password to allow the returning users to skip the dealing contract provision, and wherein the returning users are provided with additional services such as deferred billing options that are not provided to new users. Breen teaches allowing a user to register with a web site (FIG 2, item 100) and giving those that have completed the registration (contract acceptance) an ID and password to do business on the website (FIG 3). It would have been obvious to a person of ordinary

skill in the art at the time of the invention to include in Laverty the registration and login means as provided by Breen, because this has been a notoriously well known and efficient means for registering users of the system so that profile information and the like can be accessed to speed the processing and qualifications of the user who is registering.

an accepted order content confirmation means for accepting an order from a customer (FIG 3);

a design sample production means for producing design sample including image data based on data of specifications of the accepted order (col 19, lines 20-67, col 22, lines 18-27)

a design sample transmitting means for transmitting the design sample to a customer (col 21, lines); and

a confirmation means for confirming whether the order contract is accepted based on the design sample (FIG 13, item 911).

Laverty teaches an acceptance means and a fee collection means which is displayed on a customer device that can access the internet (see response to claims 1 and 2), but does not specifically mention that the customer device is a portable remote terminal, It was old and well known in the art at the time of the invention to conduct business over the internet with the use of portable devices. It would have been obvious to a person having ordinary skill in the art to include in Laverty the use of a portable remote terminal to design and approve the products for purchase in the invention,

because this would permit expanded purchasing capability by users of portable devices and thus increase sales potential.

In regard to claim 2, Laverty teaches wherein said accepted order content confirmation means is capable of specifying special specifications, special design, size, color, pattern and good name on a screen of homepage;

said system further comprises database storing data of existing specifications, new special specifications and specifications of specific patterns (FIG 14 and FIG 6, item 496), and

an image synthetic processing means for overlapping a database storing specification data of existing or new special specification and specific pattern so as to search them freely (FIG 14, col 7, line 33-col 8, line 43)) and

specification data cited from the database with a half completed model image by a computer graphic (col 8, lines 29-44, system allows the incorporation of changes to existing specifications, see also FIG 6).

In regard to claim 3, Laverty teaches a manufacturing arrangement means having manufacturing instruction form in which design sample is main (FIG 4).

In regard to claims 4 -6 and 8, Laverty does not teach the specific product designs of the instant claims. However, it would have been an obvious matter of design choice to include specific product designs of the instant claims in Laverty, because the

applicant has not disclosed that limiting the purchasing system of Laverty to only product items of the instant claims solves any stated problem or is for any particular purpose and it appears that the invention of Laverty would perform equally well designing and selling these items.

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

The applicant argues that the new feature that has been added to claim 1 overcomes Laverty. To remedy this, the examiner has introduced Breen, Jr. to teach this added feature in a combination with Laverty.

Official Notice Traverse

A "traverse" is a denial of an opposing party's allegations of fact. The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically

pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(571) 272-6755**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(571) 272-7159**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is **(571) 272-3600.**

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 872-9306 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6755 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Mark Fadok

Patent Examiner

WYNN W. COGGINS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600